

**STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2000-0818-012-002

vs.

Michael Simpson, APRN, Lic. No. 000678  
Respondent

**MEMORANDUM OF DECISION**

***Procedural Background***

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated October 5, 2000. Dept. Exh. 3. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Michael Simpson (hereinafter "respondent") which would subject respondent's advanced practice registered nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On October 18, 2000, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent's advanced practice registered nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 2.

The Board issued a Notice of Hearing dated October 18, 2000, scheduling a hearing for November 15, 2000. Dept. Exh. 2.

Respondent was provided notice of the hearing and charges against him. Department Exhibit 2 indicates that the Summary Suspension Order, Notice of Hearing and Statement of Charges were delivered by certified mail to respondent and respondent's attorney.

The hearing scheduled for November 15, 2000 was continued, and the actual hearings were held on January 17, 2001 and March 21, 2001, at the Wethersfield Town Hall, Town Council Chambers, 505 Silas Deane Highway, Wethersfield, Connecticut.

Respondent was present on both hearing dates and was represented by counsel.

Respondent filed a written Answer to the Statement of Charges. Respondent's Exh. F.

Respondent filed a Motion to Dismiss the Statement of Charges on January 16, 2001. The Board denied respondent's motion on January 17, 2001. Board Exh. 8.

During the hearing on January 17, 2001, the Board vacated the summary suspension of respondent's advanced practice registered nurse license. Transcript, January 17, 2001, pp. 142-148; Board Exh. 11.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

### ***Findings of Fact***

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued advanced practice registered nurse license number 000678 on December 4, 1992. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 3-B.
2. Pursuant to a Consent Order dated August 19, 1998, respondent's advanced practice registered nurse license was placed on probation for a period of four (4) years. The probation was ordered due to respondent's abuse of Stadol and Hydrocodone which he obtained by writing prescriptions in the name(s) of other individuals. Dept. Exh. 3A5-3A13.
3. A condition of the probation of respondent's advanced practice registered nurse license required respondent to submit to random urine screening, the results of which were to be negative for the presence of drugs and alcohol. Dept. Exh. 3A5-3A13.
4. A random urine specimen which respondent submitted on July 29, 2000 was positive for the presence of the controlled substance morphine. Dept. Exhs. 3A15, 3A18.

### ***Conclusions of Law and Discussion***

In consideration of the above Findings of Fact, the following conclusions are rendered:

Michael Simpson held a valid advanced practice registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat. §4-182(c)*.

The Department bears the burden of proof by a preponderance of the evidence in this matter.

**COUNT ONE PARAGRAPH 3** of the Statement of Charges alleges that on or about July 29, 2000, respondent abused or utilized to excess morphine.

**COUNT ONE PARAGRAPH 4** of the Statement of Charges alleges that respondent's abuse of morphine does, and/or may affect his practice as an advanced practice registered nurse.

Respondent denies the allegations in Paragraphs 3 and 4 of Count One. Respondent's Exh. F.

Based on its review of the evidence and the testimony presented, the Board concludes that respondent's conduct as alleged in paragraphs 3 and 4 of Count One is supported by the evidence presented; therefore, the Department met its burden of proof.

**COUNT TWO PARAGRAPH 7** of the Statement of Charges alleges that respondent's advanced practice registered nurse license was placed on probation pursuant to a Consent Order dated August 19, 1998, and that such disciplinary action was based upon allegations that respondent diverted Stadol nasal spray and /or hydrocodone.

Respondent denies the allegation in Paragraph 7 that disciplinary action was based upon allegations that respondent diverted Stadol nasal spray and /or hydrocodone. Respondent's. Exh. F.

It is clear from review of the Consent Order dated August 19, 1998, that the disciplinary action imposed was based on respondent's obtaining Stadol Nasal Spray or Hydrocodone for his own personal use by writing prescriptions in the name of other individuals, and his abuse and/or excessive use of Stadol or Hydrocodone. Count Two Paragraph 7 of the Statement of Charges is therefore proven, however the discipline was also based upon abuse as described above.

**COUNT TWO, PARAGRAPHS 9 and 10** of the Statement of Charges allege that respondent tested positive for morphine on July 29, 2000, and that said conduct constitutes a violation of the terms of probation of his advanced practice registered nurse license as set forth in a Consent Order dated August 19, 1998.

Respondent denies these allegations. Respondent's. Exh. F.

Based on its findings, the Board concludes that respondent's conduct as alleged in Count Two, Paragraphs 9 and 10 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board concludes that respondent's conduct constitutes a violation of the probation of his advanced practice registered nurse license as set forth in a Consent Order dated August 19, 1998. Therefore, respondent's advanced practice registered nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat. §19a-17*.

### ***Order***

Pursuant to its authority under *Conn. Gen. Stat. §19a-17* and §20-99, the Board of Examiners for Nursing hereby orders the following:

1. For Count One of the Statement of Charges, the current four year probation of respondent's advanced practice registered nurse license number 000678, as order pursuant the Consent Order dated August 19, 1998, is extended for a period of one (1) year, until August 19, 2003.
2. For Count Two of the Statement of Charges, the current four year probation of respondent's advanced practice registered nurse license number 000678, as order pursuant the Consent Order dated August 19, 1998, is extended for a period of one (1) year, until August 19, 2003.
3. If any of the following conditions of probation are not met, respondent's advanced practice registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
  - A. During the period of probation the Board shall pre-approve respondent's employment or change of employment within the nursing profession.
  - B. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
  - C. If employed as a nurse, respondent shall cause monthly employer reports to be submitted to the Board by his immediate supervisor during the entire probationary period.

- D. The employer reports cited in Paragraph C above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph O below.
- E. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours of such termination.
- F. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph O below.
- G. At his expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.
- H. Respondent shall provide a copy of this Memorandum of Decision to his therapist. The Board shall be notified in writing by his therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- I. Respondent shall cause monthly evaluation reports to be submitted to the Board by his therapist during the entire probationary period.
- J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph O below.
- K. At. his expense, respondent shall be responsible for submitting to observed random chain of custody urine and/or blood screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by his therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board of Examiners for Nursing to ensure compliance with this Order. Random alcohol/drug screens shall be

legally defensible in that specimen donor and chain of custody can be identified throughout the screening process. Respondent shall be responsible for immediately notifying the laboratory, his therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.

(1) There must be at least two (2) such random alcohol/drug screens monthly during the entire probationary period.

(2) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

(3) Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

(4) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph P below, by respondent's therapist, personal physician or the testing laboratory.

- L. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for him, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- M. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

O. All correspondence and reports are to be addressed to:

**Bonnie Pinkerton, RN, Nurse Consultant**  
**Department of Public Health**  
**Division of Health Systems Regulation**  
410 Capitol Avenue, MS #12HSR  
P. O. Box 340308  
Hartford CT 06134-0308

4. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17 of the General Statutes of Connecticut, including but not limited to, the revocation of his license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).
5. This Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Michael Simpson, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 18th day of July 2001.

BOARD OF EXAMINERS FOR NURSING

By  \_\_\_\_\_

## CERTIFICATION

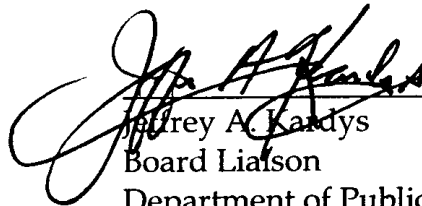
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 19<sup>th</sup> day of July 2001, by certified mail, return receipt requested to:

Michael Simpson  
c/o Diane Polan, Esq.  
129 Church Street, Suite 802  
New Haven, CT 06510

Certified Mail RRR 70001530000054289767

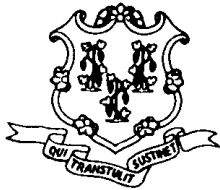
and by Inter-Departmental Mail to:

Stanley K. Peck, Director  
Legal Office  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
Hartford, CT 06134-0308



Jeffrey A. Kardys  
Board Liaison  
Department of Public Health  
Public Health Hearing Office





# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

September 2, 2003

Michael Simpson, APRN  
19 Columbine Lane  
Norwalk, CT 06851

Re: Memorandum of Decision  
Petition No. 2000-0818-012-002  
License No. 000678  
[REDACTED]

Dear Mr. Simpson:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective August 19, 2003.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,

A handwritten signature in cursive script, reading "Bonnie Pinkerton".

Bonnie Pinkerton, RNC  
Division of Health Systems Regulation

cc: J. Filippone  
J. Wojick



Phone: (860) 509-7400  
Telephone Device for the Deaf (860) 509-7191  
410 Capitol Avenue - MS # 12HSR  
P.O. Box 340308 Hartford, CT 06134  
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